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RICHARD W. WICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

14

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

WINSTON KEMPER, ) CV-08-1878 JSW (PR)  
Plaintiff, )  
v. )  
SUPERIOR COURT OF )  
ALAMEDA COUNTY )  
Defendant. )  
-----)

I filed a timely lawsuit in this court (Judge Jeffery White), Case Number CV-04-1667. This court stated I could not sue an individual nor could I sue Folsom Prison for negligence.

This court stated no law in denying me the privilege of suing these entities. This case simply put amount to discrimination. Superior Court, State Board of Control, and Board of Supervisors refused to reply or acknowledge my attempts to litigate this claim in their county.

These adverse actions violated my rights under Lewis v. Casey, 518 U.S. at 360. "I was denied minimum help necessary to litigate these issues." There may also be a conflict of interest in this case. The same judge who denied this claim with prejudice is the same one who allowed a flawed second charge against me (this conviction), although the Prosecutor used a unverifiable, whimsical

1 basis for this late charge. Defense Attorney gave rational  
2 objection. Judge still refused to closely examine Prosecutor's  
3 explanation for late filing. (Mickens v. Taylor, 535 U.S. 162.)

4 Since the second charge did not sustain "special allegation"  
5 of another person present (which I was convicted of) defense  
6 attorney was ineffective under sixth amendment; (1) Defense  
7 Attorney actively representing conflict of interest, (2) The  
8 conflict had an adverse effect on specific instances of counselor  
9 performance. (U.S. v. Swartz, 283 F.3d 76, 94).

10 Lower Court denials and opinions enclosed. **3 Exhibts.**

11 Dated: 4-21-08

12 Respectfully submitted,

13 Winston Kemper  
14 WINSTON KEMPER  
15 Plaintiff, In Pro Se

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Dearan Wallen State Prison  
P.O. Box 8500  
Coalinga, Calif 93210

Duran / Clerk,

Do you have a copy of letter  
you sent me February 16, 2005.  
The Superior Court I sent the  
first law suit too is Oakland, ca  
Alameda County 12-4-04,  
(I have Proof). I think it was  
January 105 I sent your office  
a copy of suit, On February 7,  
2005 I sent your office and  
Alameda County a copy of law suit  
on different forms. Your letter state  
the Superior court should be contacted  
to determine status of case, I think  
after 3 months its clear after 3  
Superior Court has no intention of  
replying, If this is true Please  
assist me in getting this filed in your  
court.

Thank you  
Winston Kemper

IN THE SUPERIOR COURT IN AND FOR THE  
STATE OF CALIFORNIA

Winston Kemper  
PLAINTIFF

v

FOLSON STATE PRISON  
AND DAVID HARRIS  
PRIVATE CITIZEN

CIVIL LAW SUIT

① FOLSON STATE PRISON HAS VIOLATED THE LAW, INCLUDING EVIDENCE CODE 669 (NEGLIGENCE) AND THEREFORE INSTRUMENTAL IN MY PRESENT FALSE IMPRISONMENT CONDITION A 4,000 DOLLAR CHECK WAS SENT THERE FOR ME 7-14-03 AND CLEARED 7-24-03, I PAROLED FROM THERE 7-26-03 MINUS THIS CHECK.

② DAVID HARRIS VIOLATED THE LAW 8-6-03 BY ATTACKING ME WITH A BASE BALL BAT CAUSING GREAT BODILY HARM. THESE CLAIMS COULD NOT BE RAISED IN FEDERAL COURT AND WAS REJECTED 11-8-04. THE STATE BOARD OF CONTROL DID NOT RESPOND TO MY CLAIM IN VIOLATION OF 911.6 GOV. P.<sup>(a)(1)</sup> CODE, SENT 8-5-04

Winston Kemper  
SAT. 12-4-04

(Declaration Service By Mail, attached)

(I never received notice this Petition Filed)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
IN AND FOR THE COUNTY OF ALAMEDA**

WINSTON KEMPER,

No. RG06275221

Plaintiff,

vs.

EMERYVILLE POLICE  
DEPARTMENT, et al.,

Defendants.

ENDORSED  
FILED  
ALAMEDA COUNTY

SEP 4 - 2007

CLERK OF THE SUPERIOR COURT  
By BARBARA DELL Deputy

**ORDER OF DISMISSAL**

Mr. Kemper has been given a number of chances to file a complaint that properly states a cause of action against one or more defendants, but he has not been able to do.

From these futile attempts to plead a valid cause of action, and from what I have learned in my phone conversations with Mr. Kemper, I conclude that there is no chance of his being able to state a valid cause of action against anyone. For one thing, he has conceded that he has not filed a public entity claim against any of the public-entity defendants, which means that cannot succeed in a lawsuit against them.

On the court's own motion, this action is DISMISSED WITH PREJUDICE.

Dated: August 31, 2007

  
\_\_\_\_\_  
Stephen Dombrink  
Judge of the Superior Court



DIANA HERBERT  
CLERK/ADMINISTRATOR

STATE OF CALIFORNIA  
**Court of Appeal**  
OFFICE OF THE CLERK  
FIRST APPELLATE DISTRICT  
350 McALLISTER STREET  
SAN FRANCISCO, CA 94102-4712

TELEPHONE  
(415) 865-7200  
FAX  
(415) 865-7209  
E-MAIL  
first.district@jud.ca.gov

February 16, 2005

Winston Kemper  
B-64476  
San Quentin State Prison  
San Quentin, CA 94974

Dear Mr. Kemper,

This office has received your letter dated January 28, 2005 regarding a case you have filed in superior court. It is unclear which county you filed your lawsuit in, but it is necessary to contact that court to determine the status of your case. An appeal to the First District Court of Appeal would be filed after a superior court has made a decision.

Very truly yours,  
DIANA HERBERT, Clerk/Administrator

by: *Asst. Clerk/DIAH*  
Assistant Clerk/Administrator

Copy

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

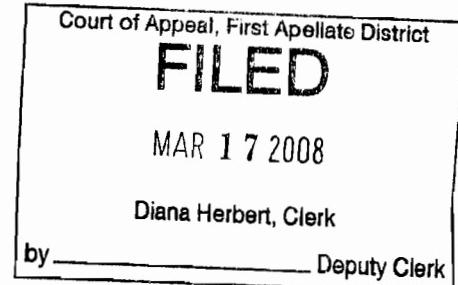
DIVISION TWO

WINSTON KEMPER

v.

THE SUPERIOR COURT OF ALAMEDA  
COUNTY.

A120867



BY THE COURT:

The petition for writ of error coram nobis is denied.

Dated: MAR 17 2008

**Kline, P.J.** \_\_\_\_\_ P.J.

SUPREME COURT  
**FILED**

MAR - 7 2008

No. S161465

Frederick K. Ohrlich Clerk

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**IN THE SUPREME COURT OF CALIFORNIA**

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Deputy

THE PEOPLE, Plaintiff and Respondent,

v.

WINSTON KEMPER, Defendant and Appellant.

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The above entitled matter is transferred to the Court of Appeal, First Appellate District, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

23 CL 206, 371 P.2d 982

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**GEORGE**  
Chief Justice

STATE OF CALIFORNIA )  
 COUNTY OF FRESNO )  
 \_\_\_\_\_ )

(C.C.P. SEC. 446 & 201.5; 28 U.S.C. SEC. 1746)

I, Winston Kemper declare under the penalty of perjury that: I am the  
 in the above entitle action; I have read the foregoing  
 documents and know the contents thereof and the same is true of my own knowledge, except as to matters  
 stated therein upon information, and belief, and as to those matters, I believe them to be true.

EXECUTED THIS 21 DAY OF April, 2008 AT PLEASANT  
 VALLEY STATE PRISON, COALINGA, CALIFORNIA 93210

(SIGNATURE) Winston Kemper  
 (DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I, Winston Kemper, am a resident of PLEASANT VALLEY STATE PRISON, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA. I am over the age of eighteen (18) years of age and I am a party of the above-entitled action. My address is: P.O. BOX 8500, COALINGA, CALIFORNIA 93210.

ON April 21, 2008, I SERVED THE FOREGOING:

ERROR CORAM NOBIS PETITION

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, IN A SEALED ENVELOPE, WITH FIRST CLASS POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN THE DEPOSIT BOX SO PROVIDED AT PLEASANT VALLEY STATE PRISON, COALINGA, CALIFORNIA 93210.

I SERVED THE FOLLOWING PERSON (S) ADDRESSED BELOW:

U. S. DISTRICT COURT  
 450 Golden Gate Ave  
 P.O. Box 36060  
 S.F., Ca. 94102 - 9680

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: April 21, 2008, Winston Kemper  
 (DECLARANT/PRISONER)